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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,757	10/18/2001	Michael Mangold	MA0364US (#90081)	8438

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EXAMINER

KLEBE, GERALD B

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,757

Applicant(s)

MANGOLD, MICHAEL

Examiner

Gerald B. Klebe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, and 13 is/are rejected.
- 7) ☒ Claim(s) 6-9, 11, 12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received. *HT Klebe 7 Nov 03*
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Amendment

1. The amendment filed 8/25/2003 under 37 CFR 1.111 has been entered. Claims 11-14 having been added, claims 1-14, as amended, are pending in the application.

Substitute Specification – Not Entered

2. The substitute specification filed 8/25/2003 has not been entered because it does not conform to 37 CFR 1.125(b); no clean copy of the substitute specification has been provided as ^{as well as a statement that the Substitute Specification contains} is required under 37 CFR 1.125(b). Appropriate correction is required. no new matter.

Specification Objections - Abstract

3. The content of the Abstract is objected to because it fails to provide a concise statement of the structural features of the invention and includes statements of purported merits of the invention.

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves

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modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Rejections – 35 USC Sec. 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10, in line 2 recites the limitation: "the rail guide". There is insufficient antecedent basis for this limitation in the claim.

Appropriate clarification or correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fritschi et al. (US 5344179).

Fritschi et al. discloses a ski or snowboard binding having boot holder components (Fig 1, items 10, 11; and refer col 5, lines 25-28) on the toe end (2) and on the heel end (3) for securing a boot on a ski or snowboard having a guide apparatus (combination items 4, 5, and 38; refer col 5, lines 10-16, and col 6, lines 10-14) extending in the longitudinal direction comprising: (**re: claim 1**)

- boot holder components (10 at the toe end, 11 at the heel end) being form-fittingly connected to the guide apparatus and fixed on the guide apparatus in the vertical direction and detachable from the guide apparatus in the horizontal direction (refer col 5, lines 25-36);

- a holding device (combination 6, and 12; refer col 5, lines 17-18; and see Fig 9) arranged between the boot holder components and secured on the ski or snowboard (See fig 9 and refer col 4, lines 57-58, and col 9, lines 1-3), and

- connection elements (34; the long tabs of items 2 and 3) connecting the guide apparatus (4, 5, and 38) to the holding device (combination 6 and 12);

and wherein (**re: claim 2**) the guide apparatus (combination 4, 5, and 38) secures the holding device (combination 6, and 12) (refer col 5, lines 17-18 and col 9, lines 1-3);

and wherein (**re: claim 3**) the holding device (combination 6, and 12) is at least partially integrated into the snowboard (refer col 9, lines 1-3);

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and wherein (**re: claim 4**) the guide apparatus (combination 4, 5, and 38) has segmented rails (since these three components of the guide are separated along the axis; and refer col 5, line 64 to col 6, line 1);

and wherein (**re: claim 10**) the guide apparatus secures the holding device on a central section of the guide (Fig. 9; and refer col 9, lines 1-3).

8. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Fritschi et al. (US 5344179).

Fritschi et al. discloses a ski or snowboard binding having boot holder components (Fig 1, items 10, 11) on the toe end (item 10) and on the heel end (item 11) for securing a boot on a ski or a snowboard (refer col 5, lines 8-28), the ski or snowboard having a guide apparatus (combination items 4, 5, 38; and refer col 5, lines 10-18, and col 6, lines 10-14) extending in the longitudinal direction of the ski, comprising: boot holder components (10, 11) form-fittingly connected to the guide apparatus the boot holder components fixed on the guide apparatus in the vertical direction and being detachable from the guide apparatus in the horizontal direction (refer col 6, lines 15-21); a holding device (combination items 6, 38, and 12; refer col 5, lines 17, 18) arranged between the boot holder components and secured on the ski or snowboard (refer col 6, lines 34-38; and col 9, lines 1-3), and wherein the boot holder components (10, 11) are coupled in the longitudinal direction of the guide apparatus to the holding device (refer col 5, lines 25-28, and lines 33-36, and col 6, lines 48-52); and connection elements (items 34, the left and right extended tabs of items 2, and 3) which are adjustable against further toe-to-heel movement of the connection elements (the toothed profiles 36 of each of the items 34, combined with locking item 37, which is part of the holding device (combination of items 6, 38 and 12)) connecting the guide apparatus to the holding device (refer col 5, lines 25-36, and col 6, lines 58-63).

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9. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Fritschi et al. (US 5344179).

Fritschi et al. discloses a ski binding or snowboard binding having boot holder components on the front of toe end and on the rear or heel end for securing a boot on a ski or a snowboard, the ski or snowboard having a flexible guide apparatus having a front portion (4), a central portion (combination items 6, 38 and 12) and a rear portion (5), the guide apparatus extending in the longitudinal direction of the ski or snowboard, the binding comprising;

- a front baseplate (2; refer col 5, lines 8-18) holding a boot holding component (items 10, and 11; refer col 5, lines 25-28) and configured for being displaceably mounted on the front portion of the guide apparatus (refer col 5, lines 12-15);
- a rear base plate (3) configured for being displaceably mounted on the rear portion of the guide apparatus (refer col 5, lines 15-16);
- a holding apparatus (combination items 6, 38 and 12) fixedly mounted on the central portion of the guide apparatus between the front base plate and the rear base plate (see Fig 3, and refer col 5, lines 28-36 and col 9, lines 1-3);
- and structure for displacing the front base plate and the rear baseplate longitudinally along the guide apparatus (refer col 5, lines 10-36);
- the front base plate and the rear base plate flexing in response to the flexing of the ski or snowboard when the base plates are mounted on the guide apparatus (refer col 2, lines 21-26).

Allowable Subject Matter

10. Claims 6-9, 11-12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Argument

11. Applicant's arguments filed 8/25/2003 relative to the rejections under 35 USC 102 based upon the reference due to Graf et al. (US 5947508) have been fully considered but are moot in light of the new grounds of rejection.

Furthermore, Applicant's response is incomplete, failing to address the rejection of claim 5 under 35 USC 102 based upon the reference of Fritschi et al. (-179).

Action made Final

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Conclusion


13. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306, M-F 8:00 AM- 4:30 PM ET, or to Supervisory Patent Examiner Brian L. Johnson, Art Unit 3618, at 703-308-0885.

Note that the examiner's fax number has changed.

Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327;

Customer Service: 703-872-9325.

 gbklebe / Art Unit 3618 / 7 November 2003


BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
11/12/03